latter voluntarily based his claim for re-election, and was not primarily addressed to the judge in person, the doctrine of that case would hardly seem in accord with the principles of public policy advanced in *In re Hart.*[14] The decision may be sustained, however, on the ground of moral turpitude pointed out in *State* v. *McClaugherty,*[16] or possibly on the New York view[27] that the attorney's sole remedy is to institute impeachment proceedings.

RULES LIMITING FUTURE ESTATES, IN ENGLAND.—The rule against perpetuities in England to-day seeks *generally* to prevent remote vesting of future interests. Its application to executory devises, springing and shifting uses, powers, rights of entry for condition broken,[1] and the perpetual right, by covenant, of pre-emption[2] to the fee, in the vendor of realty, and his assigns, has been recognized. Its application to contingent remainders, however, has been much disputed. Legal contingent remainders have divided the authorities. Against the application of the rule it is argued that the recognition of the validity of contingent remainders antedated the estates which called the rule against perpetuities into existence and against which it was aimed.[3] Further, it is argued that such remainders were subject to an independent rule which grew out of the old rule against double possibilities; that a remainder to an unborn person could not be followed by a remainder to his unborn son.[3] Against this rule and in favor of the rule against perpetuities it is urged that contingent remainders and executory devises gained recognition simultaneously, that remoteness as a vice was unknown in early common law, that no trace of any accepted independent rule existed while the rule against perpetuities was being formulated and that the latter embraced common law interests.[4]

In *Whitby* v. *Mitchell,*[5] decided in 1889, the court faced the situation squarely, and held void a remainder to an unborn child following a remainder to his unborn parent, limited, however, to vest within lives in being, on the ground that it offended against the rule against double possibilities. A recent English case, *In re Nash* (1909) 78 L. J. R. 78 Ch. Div. 657, has extended the doctrine to similar equitable limitations. If the holding in *Whitby* v. *Mitchell* means that the rule against double possibilities must be applied to legal contingent remainders to prevent remoteness of vesting for the reason that the rule against perpetuities has no application to such interests, the case lends no support to the instant decision. So-called equitable contingent remainders have been declared subject to the rule against perpetuities[6] for the reason that they need not vest immediately upon the determination of the preceding estate because the seisin in the trustees supports them, and the freehold is not in abeyance.[7]

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[27]Matter of Manheim *supra.*

[1]*In re* Macleay (1875) L. R. 20 Eq. 186; Dunn *v.* Flood (1882) L. R. 25 Ch. Div. 629; *In re* Hollis' Hospital L. R. [1899] 2 Ch. 540.

[2]London & S. W. Ry. *v.* Gomm (1880) L. R. 20 Ch. Div. 562. See 7 COLUMBIA LAW REVIEW 406.

[3]Williams, Real Property (6th Ed.) 271; 15 L. Q. R. 71; 14 L. Q. R. 133.

[4]14 L. Q. R. 234; 6 L. Q. R. 410; Gray, Perp. (2 ed.) §§284-299 and 321b.

[5]L. R. 42 Ch. D. 494.

[6]*In re* Hargreaves (1889) L. R. 43 Ch. D. 401; Abbiss *v.* Burney (1881) L. R. 17 Ch. Div. 211.

[7]Hopkins *v.* Hopkins (1738) 1 Atk. 581.

Nor do the historical reasons favoring the application of the rule against double possibilities to legal contingent remainders—that it existed and applied to them before any rule against perpetuities existed—apply since equitable contingent remainders do not antedate the future estates that gave rise to the rule against perpetuities. Moreover, such considerations have prevented the application of the rule to equitable limitations in personal property.[8]

The court bases its decision largely upon *Monypenny* v. *Dering*,[9] which lends some support to this view. However, against this case it has been urged that "the rule so laid down rather enunciates the general policy of the law prohibiting any contrivance to create a perpetuity than formulates the exact rule applied in *Whitby* v. *Mitchell*."[10] Moreover, the remainder there held void was in fact obnoxious to the rule against perpetuities. On the other hand, it may be argued that policy underlies the decision in *Whitby* v. *Mitchell;* policy which abhors any tying up of estates which tend to a perpetuity, *i. e.*, a descendible, inalienable, interest. In carrying out this policy the courts employ all means within reach. Since equity has followed the law in its attempts to defeat perpetuities[11] the decision in *In re Nash* is possibly supportable on this ground. This view has recently been strongly urged by an English writer.[12] To-day legal contingent remainders in England are subject to the rule against perpetuities.[13] Accordingly all remainders are subject to two rules: one that they must necessarily vest within the period prescribed by the rule against perpetuities; the other that a remainder to an unborn son is void if it follows a remainder to his unborn parent.

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[8]*In re* Bowles L. R. [1902] 2 Ch. 650.

[9](1852) 2 De G. M. & G. 143.

[10]Williams, Real Property (20 ed.) 405, note h.

[11]Monypenny *v.* Dering *supra;* Humbertson *v.* Humbertson (1717) 2 Vern. 737; Marlborough *v.* Godolphin (1759) 1 Eden 404; North *v.* Way (1681) 1 Vern. 13.

[12]Charles Sweet, 25 L. Q. R. 385.

[13]*In re* Frost (1889) L. R. 43 Ch. D. 246; *In re* Ashforth L. R. [1905] 1 Ch. 525.